

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

-----X
G.M.M., a minor child by his mother and natural
guardian, NIKI HERNANDEZ-ADAMS,
and NIKI HERNANDEZ-ADAMS, individually,

Defendants,

No.: 1:13-CV-05059

v.

MARK KIMPSON,

Defendant.

-----X

STATE OF NEW YORK)

)

.ss:

COUNTY OF KINGS)

ALEX MOUSSAVI, P.E., being duly sworn, deposes and says that:

1. I have personal knowledge of the matters within this Affidavit. I am a Licensed Professional Engineer and a practicing structural inspector. Structural engineering in particular, deals with the design of structures which support and resist loads. As a structural inspector, I assess the overall design, system, buildout soundness and code conformity of both residential and commercial properties.
2. I received my Bachelors of Science in Civil Engineering form Tennessee State University in 1980 and my Masters in Civil Engineering for Tennessee State University in 1982. I am a Licensed Professional Engineer, having been licensed in the State of New York since 1985.

3. I am qualified to perform structural property inspections and provide related services to property owners, both residential and commercial. As such, I am fully familiar with the generally accepted tenets within the field of structural engineering. The structural inspections I perform are routinely used in the assessment of the overall condition and buildout of residential and commercial properties.
4. I currently am the President of ACE Engineering Inspection, Inc. In this capacity, I have performed countless property inspections.
5. A copy of my curriculum vitae is attached as Exhibit "A" hereto.
6. On February 5, 2015, I performed a structural inspection of the property located at 490 MacDonough Street, Brooklyn, NY 11233. The purpose of the inspection was to evaluate the major systems of the building such as foundation, structure, heating system, electrical system, plumbing system, roofing, exterior siding, the interior rooms and specifically the ground level apartment. A report of my findings, which I hereby certify as accurate, is attached hereto as Exhibit "B".
7. While the report contains the full scope of my findings, I have highlighted those made with respect to the ground floor apartment:

WALL COVERINGS:

We inspected the interior wall coverings of the building. The wall coverings were drywall material which were installed in 2011 over the old plaster. The old plaster, the old wall coverings and the paint were entirely encapsulated. This is an acceptable practice in encapsulating the old lead paint covered plaster walls. We did not observe any evidence of

cracks in the drywall or loose and peeling paint. The drywall wall covering was found to be in overall satisfactory condition.

CEILING STRUCTURE & COVERING:

The ceiling structure of the interior rooms of the building were constructed of wood frame structure and covered with new drywall ceiling coverings. The drywall ceiling covering was installed in approximately 2011. We inspected the ceiling structure and it was found to be in overall satisfactory condition. The drywall ceiling covering was closely inspected. We did not observe any evidence of cracks, loose, peeling or chipped paint in the new drywall ceiling covering. The drywall ceiling covering was installed over the old lead paint covered plaster ceiling. This is the proper method of encapsulation of lead paint covered wall or ceiling. The drywall ceiling covering was found to be in satisfactory condition.

KITCHEN:

The ground level apartment consists of a kitchen, living room, bathroom and one bedroom. The wall, floor and ceiling coverings of the kitchen were inspected. The floor covering was ceramic floor tiles and in satisfactory condition. The cabinets, counter, appliances and the sink were in satisfactory condition. The drywall wall and ceiling coverings were installed over the old plaster wall coverings in the 2011. The new drywall wall and ceiling coverings were the proper method of encapsulation over the old plaster walls and ceilings. The new drywall wall and ceiling coverings were inspected and found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

LIVING ROOM:

We inspected the living room of the ground level apartment. The floor covering was hardwood floor and in satisfactory condition. The wall and ceiling coverings were drywall material and installed in 2011. The drywall wall and ceiling coverings were installed over the old plaster walls and ceiling. The new drywalls were the proper method of encapsulating the old lead paint covered plaster walls and ceiling. The drywall wall and ceiling coverings were inspected and found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

BEDROOM:

There is one bedroom in the ground level apartment. We inspected the bedroom of the apartment. The floor covering was hardwood floor and in satisfactory condition. The wall and ceiling covering were drywall material and were installed in 2011. The new drywall were installed over the old plaster walls and ceiling. The old walls and ceiling were properly encapsulated by installing the new drywall over the old surface. The drywall wall and ceiling coverings were found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

BATHROOM:

We inspected the bathroom of the ground level apartment. The floor covering was ceramic tiles and were in satisfactory condition. The walls and ceiling were covered with a combination of ceramic tiles and drywall. The old plaster were covered with new drywall and tiles. This method of encapsulation is acceptable. The bathroom was in acceptable condition and was constructed as per the engineering and construction industry design standards.

MOLDINGS/DOOR & WINDOW FRAMES/PANELING:

We observed some of the old window and door moldings and some of the old panelings which were in good condition and were preserved. We inspected the overall condition of moldings and old panelings. They were cleaned and painted with several coats of new paint in 2011. The application of new paint to the old moldings and panelings was adequate and created a surface which was properly encapsulated and lead safe. The moldings and panelings were in overall satisfactory condition and were repaired and restored as per the engineering and construction industry design standards.

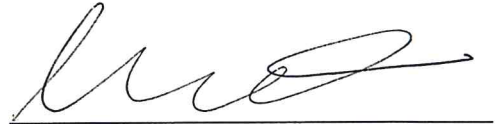
8. Based upon the foregoing findings, I can conclude with a reasonable degree of structural engineering certainty that:

A) The building was entirely renovated in 2011. The workmanship, the quality of work, the installation and the safety of the work were found to be acceptable and met the engineering and construction industry design standards.

B) The ground level apartment was totally renovated in 2011. The walls and ceilings were entirely encapsulated with new drywall. The floor covering was hardwood floor. The method of encapsulation, the workmanship, the quality control, the safety and the overall renovation of the ground level apartment was found to be acceptable and met the engineering and construction industry design standards.

C) Some of the old door and window moldings and wall panelings in the ground level apartment were restored and preserved. The workmanship, the encapsulation of the old moldings and panelings, the quality of the work and the safety of the work were found to be acceptable and met the engineering and construction industry design standards.

9. I further swear that I have read this Affidavit and that I have made same and believe the foregoing statements herein are true. I further swear that the basis of the beliefs, findings and conclusions herein are based on my own direct knowledge and upon the generally accepted principles of structural engineering.


Alex Moussavi, P.E.

Sworn to before me this 16th
day of February, 2015


Notary Public

ROGER V. ARCHIBALD
Notary Public, State of New York
No. 24-4989923
Qualified in Kings County
Commission Expires Dec. 23, 17

EXHIBIT A

ACE ENGINEERING INSPECTION, INC.

LICENSED PROFESSIONAL ENGINEERS

3200 Jason Drive
Bellmore, NY 11710

Phone#: (516) 785-3000
FAX#: (516) 785-5839
e-mail: ace.engineering@aol.com

Alex Moussavi, P.E.

EXPERIENCE:

- 2/88 – Present Structural Engineer – Ace Engineering Inspection, Inc., owner and the engineer. I inspect pre-purchase residential, commercial and industrial properties for my clientele. These inspections involve the foundation, structure, footing, the plumbing, the electrical, the roofing, the heating system, the wall, ceiling and floor structure, the foundation failure, the analysis of the defects, the method of repair and the cost estimate for the repair work. Inspect, investigate, design and make recommendations for the design procedure and the method of repair of the structural defects involved in the residential and commercial properties. Investigate, analyze and prepare report and cost estimate on insurance claims for the homeowners and insurance companies. Participate in expert testimony or arbitration cases on behalf of the homeowners or the insurance companies.
- 8/82 – 2/88 Structural Engineer – New York City Transit Authority, Engineering Department – Construction Division. I reviewed the designs, specifications, terms of the contract and made recommendations, prepared final and partial estimates. Wrote daily and monthly reports and estimated the monthly payments for Contractors and Consultants. Prepared Additional Work Order Packages.

Staff Summary Sheets, Schedules and Final Packages for contract closeouts. Participated in job meetings/visits and recommended solutions to various problems on the job. Supervised two Assistant Engineers in the closeout of the contracts and consultants contracts. Also involved in project cost estimate analysis, preparing various reports, project status reports, surveying, supervision, inspection, possible changes in the design, safe practice and problem solving of the construction work.

6/80 – 6/82 Research Intern, Department of Civil Engineering, Tennessee State University. Designed, constructed and maintained mechanical apparatus used in soil mechanics experiments. Position obtained through an informal grant awarded by the Civil Engineering Faculty to outstanding undergraduate Students.

EDUCATION: Master of Civil Engineering – August 1982, Tennessee State University. Broad Engineering Curriculum with individual specialization in structural and construction area – G.P.A. 3.909

Bachelor of Science of Civil Engineering – May 1980, Tennessee State University. Engineering program which emphasized mathematics, science, basic engineering, both in practical and theoretical G.P.A. – 3.25

HONORS: Tau Beta Pi (Engineering Honorary), received Bachelor of Science with distinction and Master with highest distinction, Member of the American Society of Civil Engineers, National Society of Professional Engineers, American Society of Home Inspectors and National Society of Home Inspectors.

LICENSES: New York State Professional Engineering License

REFERENCE: Available Upon Request

EXHIBIT B

ACE ENGINEERING INSPECTION, INC.
LICENSED PROFESSIONAL ENGINEERS

3200 Jason Drive
Bellmore, NY 11710

Phone#: (516) 785-3000
FAX#: (516) 785-5839
e-mail: ace.engineering@aol.com

February 9, 2015

Mr. Mark Kimpson
19 Brevoort Place
Brooklyn, NY 11216

Subject: 490 MacDonough Street, Brooklyn, NY 11233
Report# 609709

Dear Mr. Kimpson:

As per your request, an engineering inspection of the subject property was performed on February 05, 2015. The purpose of this inspection was to evaluate the major systems of the building such as foundation, structure, heating system, electrical system, plumbing system, roofing, exterior siding, the interior rooms and specifically the ground level apartment. This engineering report is entirely based on the visible and accessible areas of the building on the day of the inspection. Following are our findings:

DESCRIPTION

The subject building was a three story, brownstone, two family dwelling structure, brick exterior walls, wood framed floor structure, attached on both sides and supported on perimeter foundation walls of stone, basement and interior brick and wood support posts. The front façade of the building was brownstone material and the rear façade was brick. The flat roof of the building was covered with rubberized roofing material. There was a one story kitchen extension at the rear of the building. For the purpose of this report, the front of the building was referenced to face north.

FOUNDATION

We inspected the foundation of the building in the basement and around the exterior perimeter of the building. The stone foundation wall was visible and accessible in the basement and we were able to evaluate its structural condition. The stone foundation wall was re-pointed with cement mortar and interior face was painted. We did not observe any evidence of structural cracks, shift, bow or structural deflection in the foundation wall. The stone foundation wall was found to be in overall satisfactory condition.

WALL STRUCTURE

The exterior walls of the building were constructed of brick material and the wall covering was new drywall material. We inspected the wall structure for any evidence of leak, structural cracks or structural deflection. We did not observe any evidence of structural defect and the wall structure were found to be in overall satisfactory condition.

WALL COVERINGS

We inspected the interior wall coverings of the building. The wall coverings were drywall material which were installed in 2011 over the old plaster. The old plaster, the old wall coverings and the

paint were entirely encapsulated. This is an acceptable practice in encapsulating the old lead paint covered plaster walls. We did not observe any evidence of cracks in the drywall or loose and peeling paint. The drywall wall covering was found to be in overall satisfactory condition.

CEILING STRUCTURE & COVERING

The ceiling structure of the interior rooms of the building were constructed of wood frame structure and covered with new drywall ceiling coverings. The drywall ceiling covering was installed in approximately 2011. We inspected the ceiling structure and it was found to be in overall satisfactory condition. The drywall ceiling covering was closely inspected. We did not observe any evidence of cracks, loose, peeling or chipped paint in the new drywall ceiling covering. The drywall ceiling covering was installed over the old lead paint covered plaster ceiling. This is the proper method of encapsulation of lead paint covered wall or ceiling. The drywall ceiling covering was found to be in satisfactory condition.

PLUMBING SYSTEM

The plumbing system of the building consists of the water pipes and waste pipes. We inspected the visible water pipes and waste pipes in the bathrooms, kitchens and basement of the building. The water pipes were new copper pipes and the waste pipes were new cast iron, PVC and brass pipes. It appears that the old plumbing pipes of the building were replaced in 2011 when the building was renovated. The plumbing system of the building was inspected and found to be in acceptable condition and constructed as per the engineering and construction industry design standards.

HEATING SYSTEM

The heating system of the building was hot steam radiator system. The heating unit was Weil McLain brand, cast iron base,

gas fired, approximately 5-8 years old and in satisfactory condition. The heating unit, the heat pipes, the radiators and the entire heating system of the building were inspected and found to be in overall satisfactory condition and constructed as per the engineering and construction industry design standards.

ELECTRICAL SYSTEM

We inspected the electrical system of the building in the basement and throughout the building. We observed new electrical wirings, panel boxes, outlets, switches, lights and the entirely new system. It appears that the electrical system of the building was replaced in 2011. There were three (common area, first family and second family) electrical meters and panel boxes in the basement. The electrical capacity for each family house was 60 amps and the panel box for the ground level apartment was branched out of the common area panel box. The electrical system, wiring and the entire electrical components of the building had been replaced during the past 5-10 years. The electrical system of the building were found to be in overall satisfactory condition and constructed as per the engineering and construction industry design standards.

ROOF SYSTEM

The roof structure of the building was visually inspected at the roof level and at the top level apartment. The wood frame roof structure was found to be in overall satisfactory condition. The roof covering was asphalt rubberized roof and mostly covered with snow. Sections of the roof which were not covered with snow and ice were inspected. We did not observe any evidence of roof leak. The roof structure and the rubberized roof covering were found to be in overall satisfactory condition and constructed as per the engineering and construction industry design standards.

EXTERIOR FAÇADE

The front façade of the building was brownstone material and in satisfactory condition. The rear façade of the building was brick material. We inspected the front and rear façade. We observed cement mortar deterioration at the joint of the bricks. The front brownstone façade was found to be in overall satisfactory condition. The cement mortar between the bricks of the rear brick façade was deteriorated at sections. Plan to repoint the rear brick façade.

KITCHEN (GROUND LEVEL APARTMENT)

The ground level apartment consists of a kitchen, living room, bathroom and one bedroom. The wall, floor and ceiling coverings of the kitchen were inspected. The floor covering was ceramic floor tiles and in satisfactory condition. The cabinets, counter, appliances and the sink were in satisfactory condition. The drywall wall and ceiling coverings were installed over the old plaster wall coverings in the 2011. The new drywall wall and ceiling coverings were the proper method of encapsulation over the old plaster walls and ceilings. The new drywall wall and ceiling coverings were inspected and found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

LIVING ROOM (GROUND LEVEL APARTMENT)

We inspected the living room of the ground level apartment. The floor covering was hardwood floor and in satisfactory condition. The wall and ceiling coverings were drywall material and installed in 2011. The drywall wall and ceiling coverings were installed over the old plaster walls and ceiling. The new drywalls were the proper method of encapsulating the old lead paint covered plaster walls and ceiling. The drywall wall and ceiling coverings were inspected and found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

BEDROOM (GROUND LEVEL APARTMENT)

There is one bedroom in the ground level apartment. We inspected the bedroom of the apartment. The floor covering was hardwood floor and in satisfactory condition. The wall and ceiling covering were drywall material and were installed in 2011. The new drywall were installed over the old plaster walls and ceiling. The old walls and ceiling were properly encapsulated by installing the new drywall over the old surface. The drywall wall and ceiling coverings were found to be in overall satisfactory condition and were constructed as per the engineering and construction industry design standards.

BATHROOM

We inspected the bathroom of the ground level apartment. The floor covering was ceramic tiles and were in satisfactory condition. The walls and ceiling were covered with a combination of ceramic tiles and drywall. The old plaster were covered with new drywall and tiles. This method of encapsulation is acceptable. The bathroom was in acceptable condition and was constructed as per the engineering and construction industry design standards.

MOLDINGS/DOOR & WINDOW FRAMES/PANELING

We observed some of the old window and door moldings and some of the old panelings which were in good condition and were preserved. We inspected the overall condition of moldings and old panelings. They were cleaned and painted with several coats of new paint in 2011. The application of new paint to the old moldings and panelings was adequate and created a surface which was properly encapsulated and lead safe. The moldings and panelings were in overall satisfactory condition and were repaired and restored as per the engineering and construction industry design standards.

CONCLUSION

In summary, the following were concluded:

1. The building was entirely renovated in 2011. The workmanship, the quality of work, the installation and the safety of the work were found to be acceptable and met the engineering and construction industry design standards.
2. The ground level apartment was totally renovated in 2011. The walls and ceilings were entirely encapsulated with new drywall. The floor covering was hardwood floor. The method of encapsulation, the workmanship, the quality control, the safety and the overall renovation of the ground level apartment was found to be acceptable and met the engineering and construction industry design standards.
3. Some of the old door and window moldings and wall panelings in the ground level apartment were restored and preserved. The workmanship, the encapsulation of the old moldings and panelings, the quality of the work and the safety of the work were found to be acceptable and met the engineering and construction industry design standards.

Sincerely yours,



Alex Moussavi, P.E.
Licensed Professional Engineer

Photographs

Photo 1

View of the front (north) side of the building.



Photo 2

View of the front (north) side of the building.



Photo 3

View of the exterior façade of the ground level apartment.



Photo 4

View of the exterior front façade of the upper level apartments.



Photo 5

View of the rear brick façade of the building.



Photo 6

View of the rear kitchen extension.

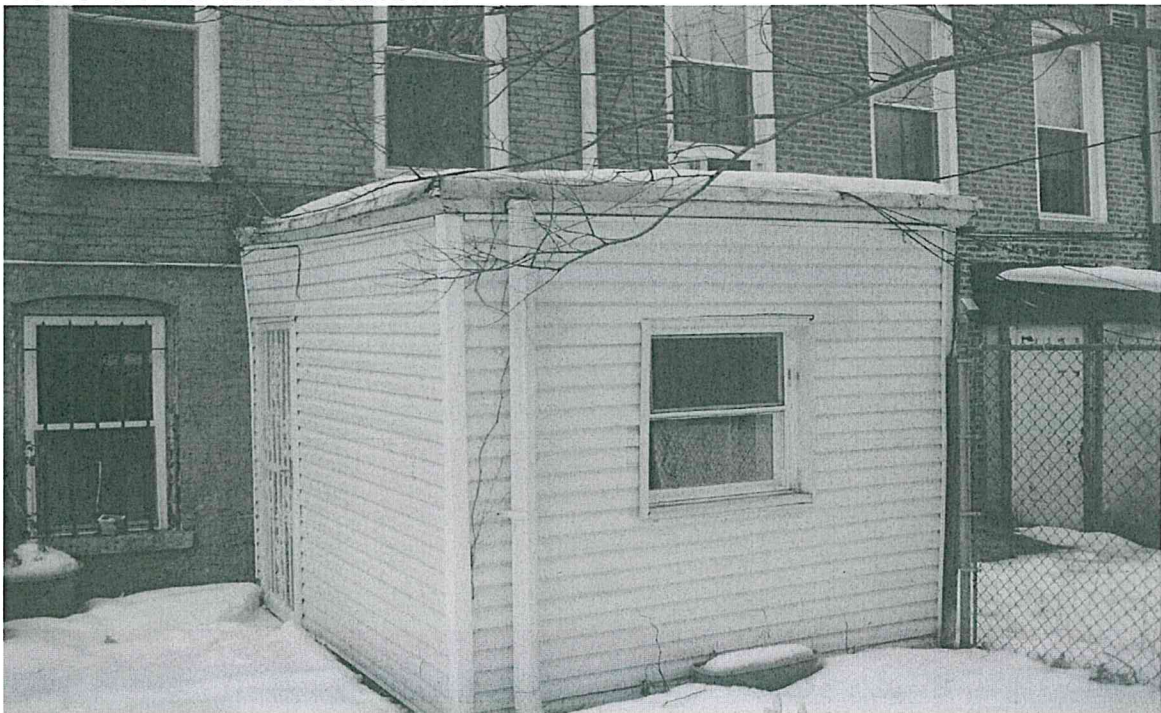


Photo 7

View of the front stoop of the building.



Photo 8

View of the basement of the building.



Photo 9

View of the foundation wall in the basement of the building toward the northeast corner.

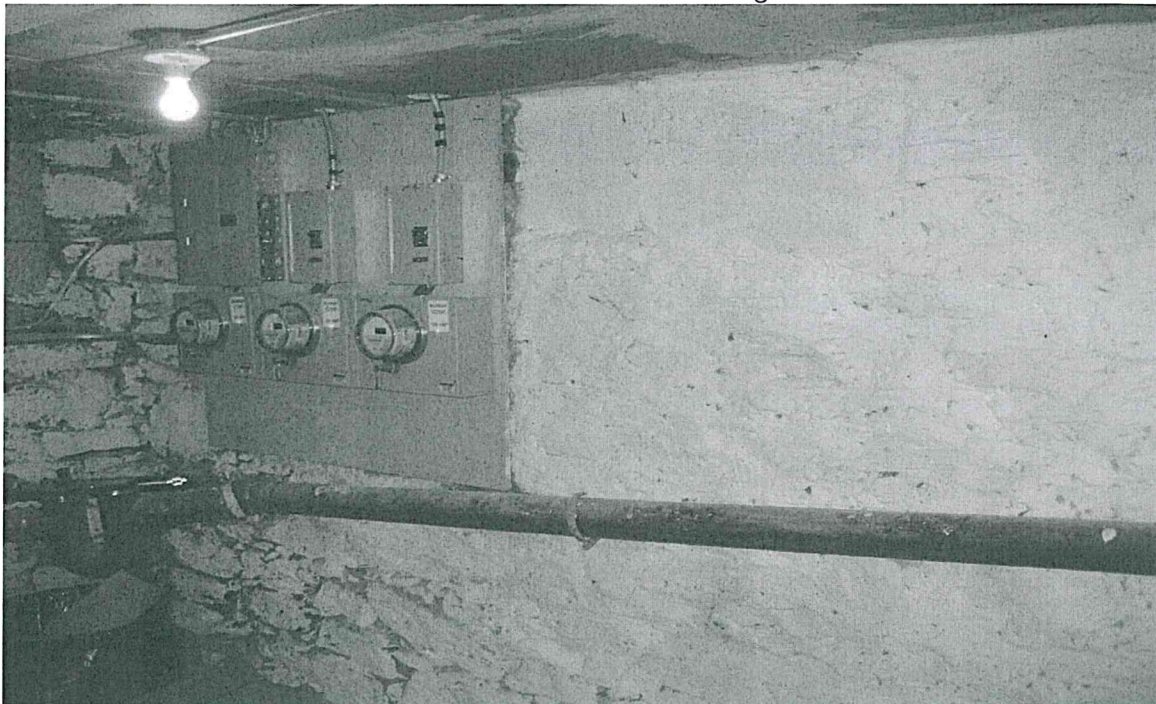


Photo 10

View of the electric panel boxes and the main circuit breaker boxes.

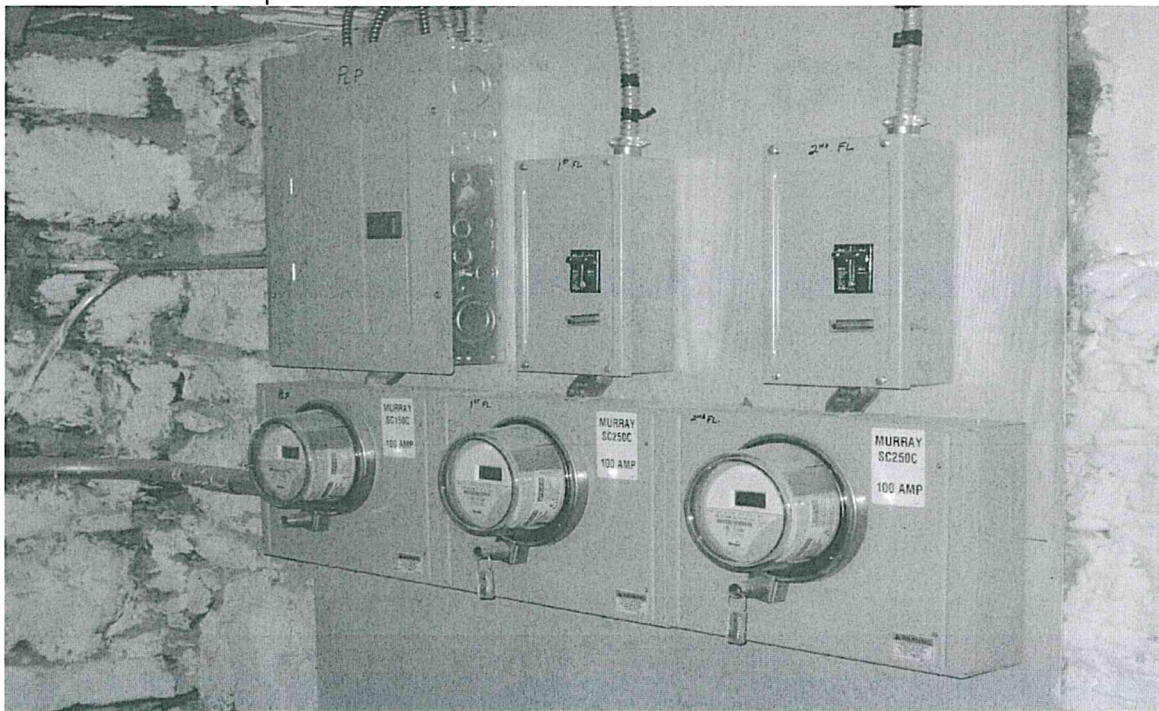


Photo 11

View of the new cast iron waste pipe in the basement along the east foundation wall.

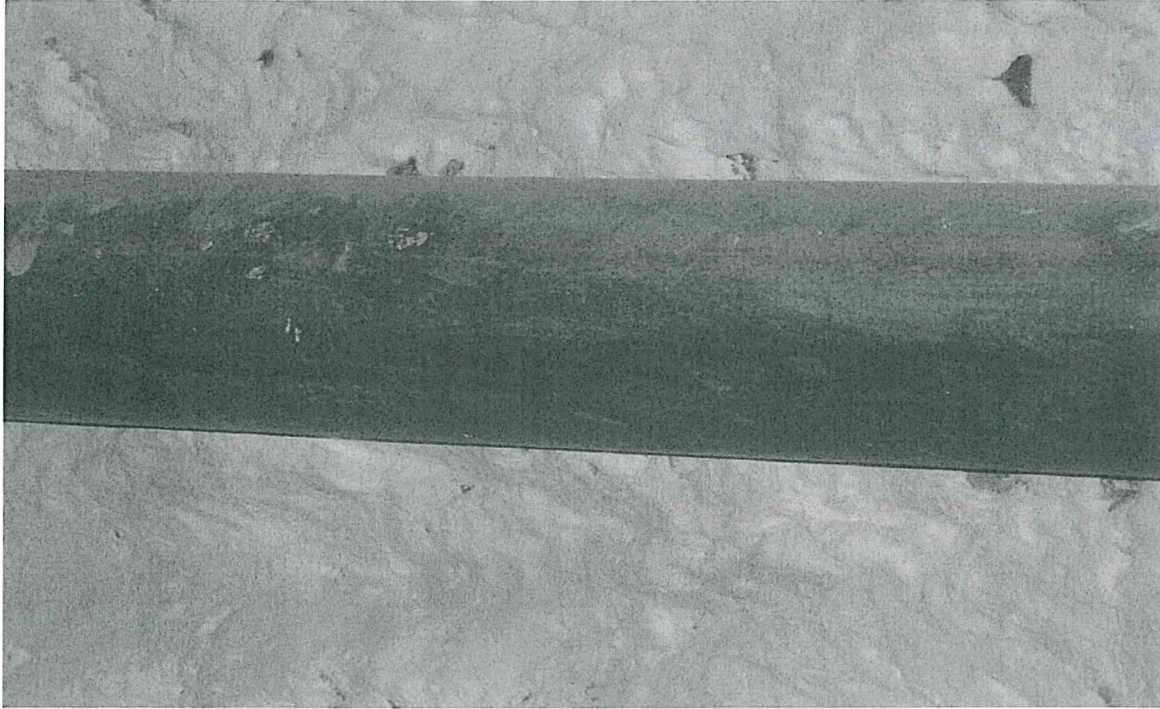


Photo 12

View of the new cast iron waste pipe and sewer trap in the basement.

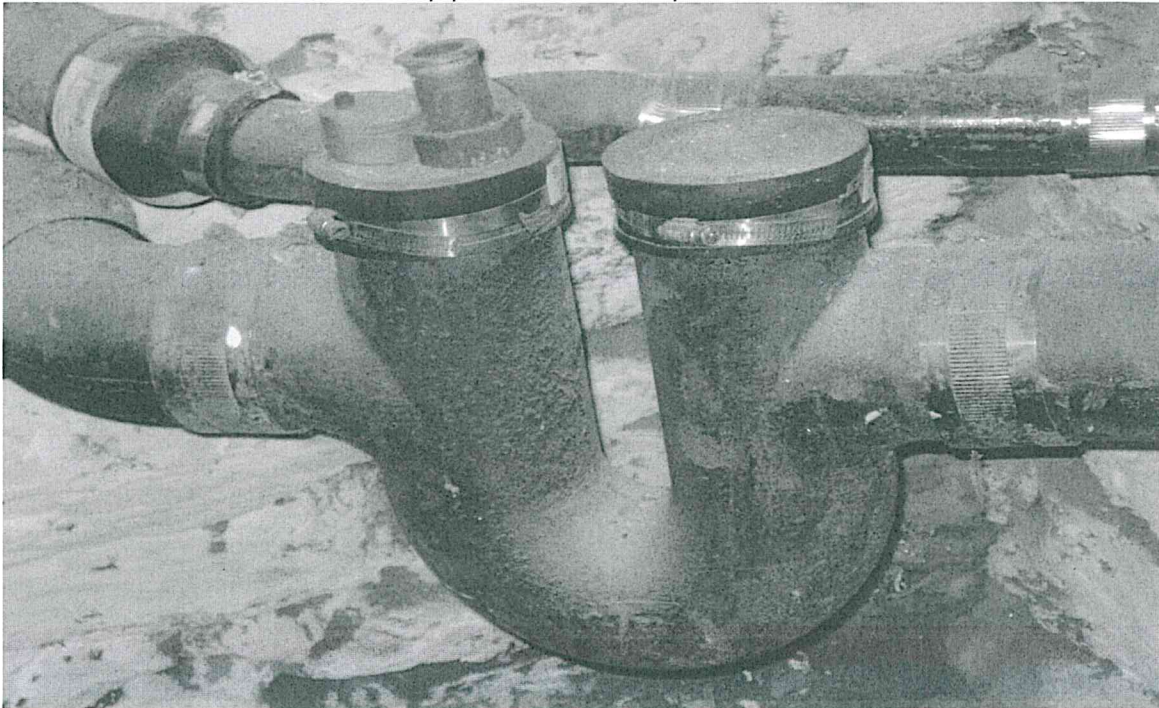


Photo 13

View of the new copper water pipe in the basement.

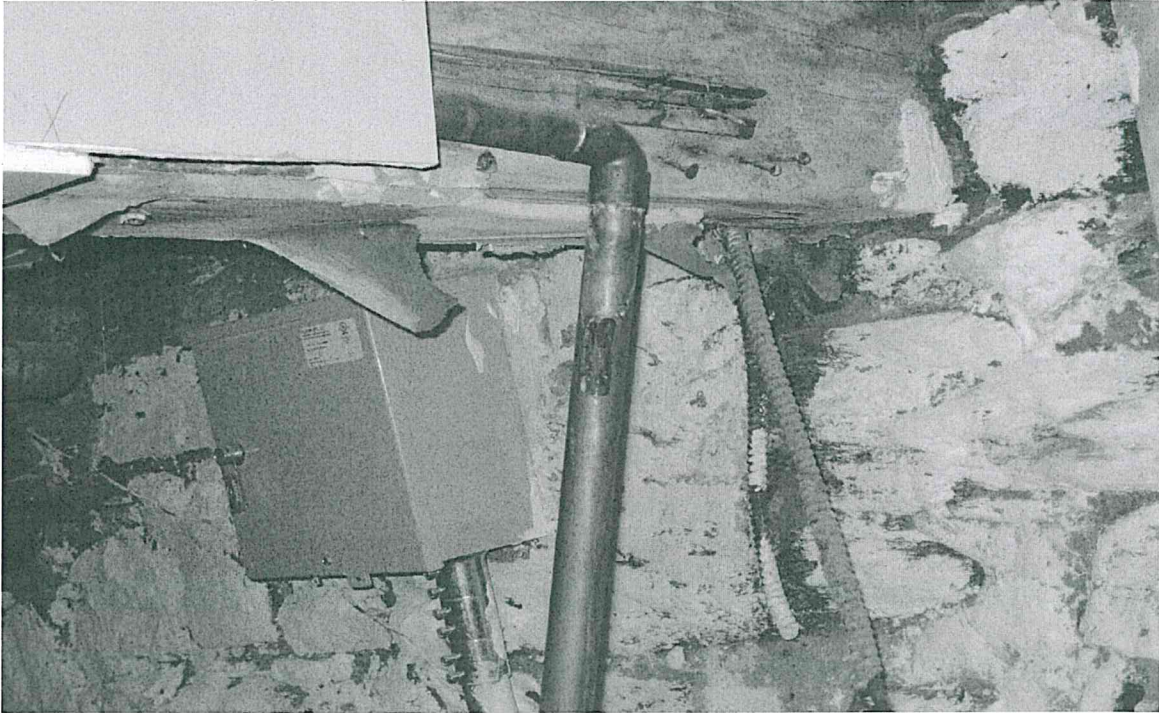


Photo 14

View of the new copper water pipe and meter in the basement of the building.



Photo 15

View of the gas meters and gas pipes in the basement of the building.

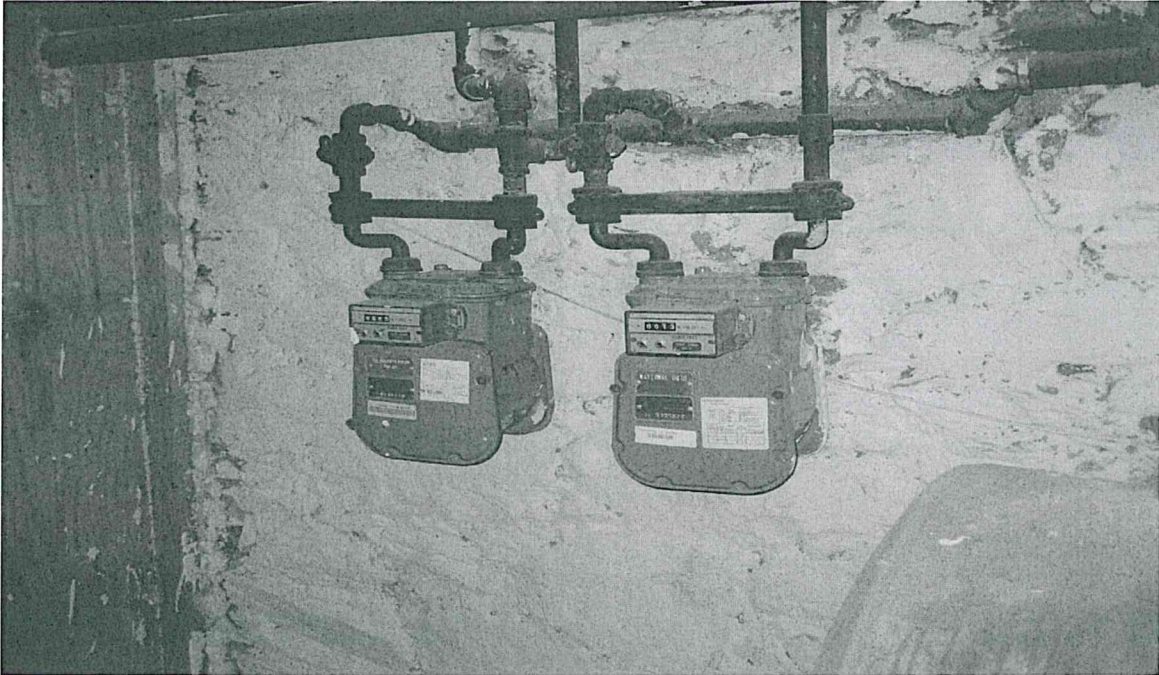


Photo 16

View of the boiler in the basement of the building.

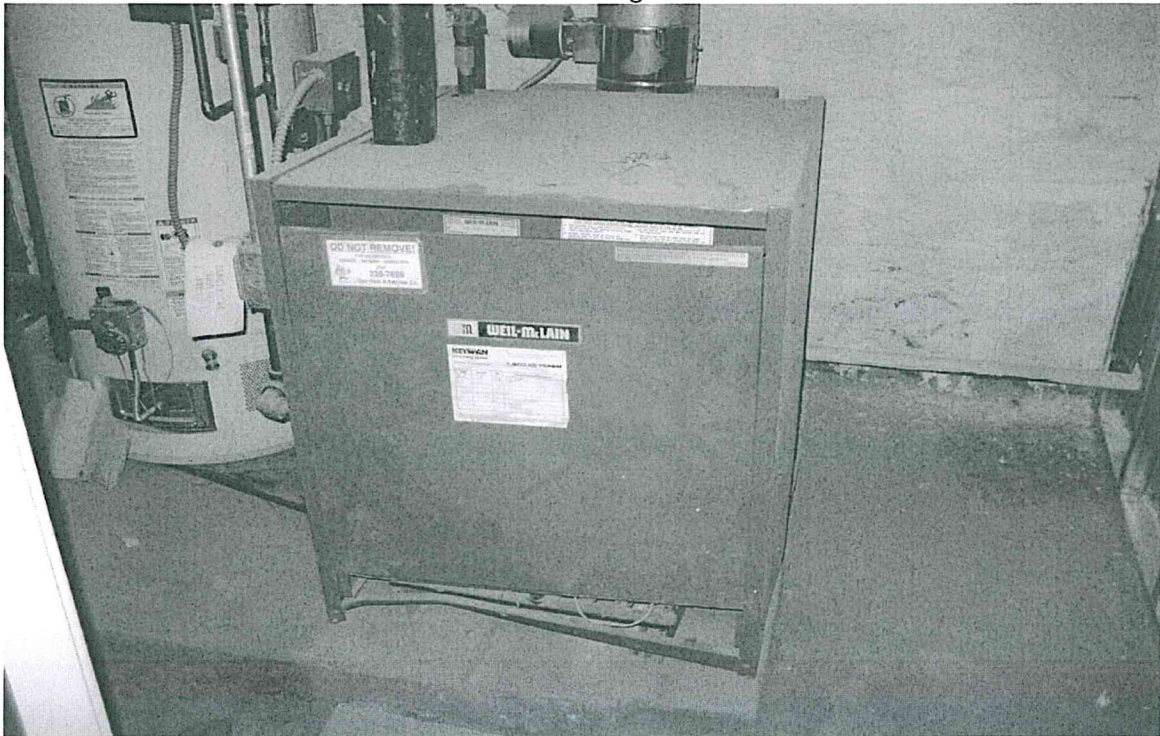


Photo 17

View of the hot water heater in the boiler room in the basement.

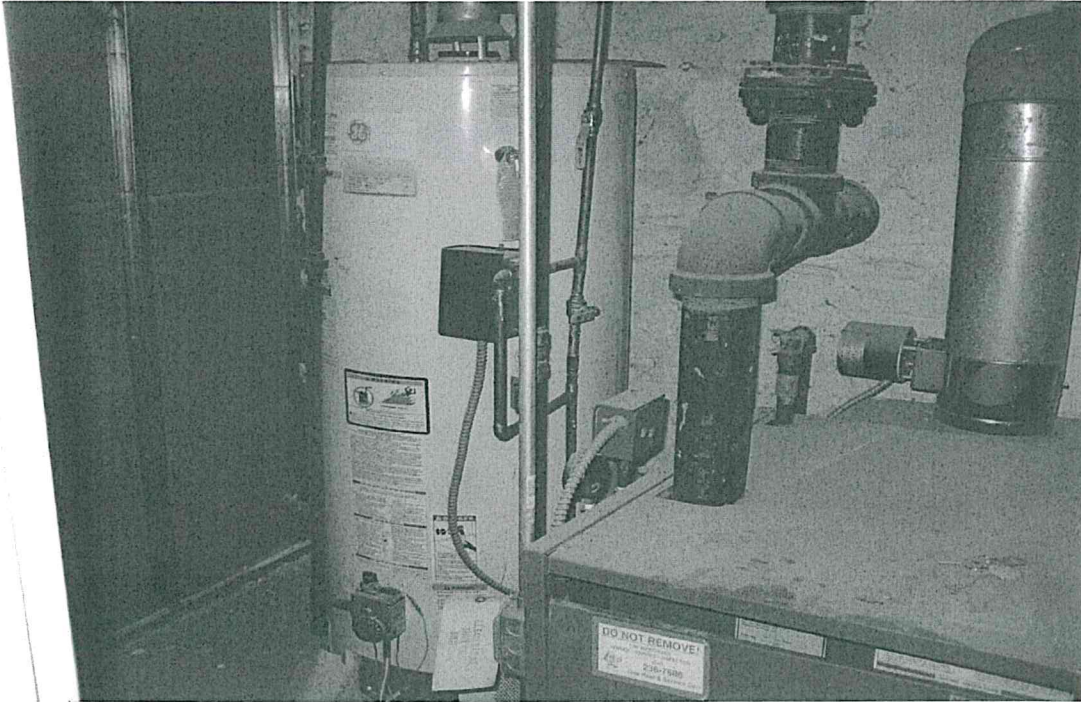


Photo 18

View of the cast iron waste pipe on the ceiling of the basement of the building.

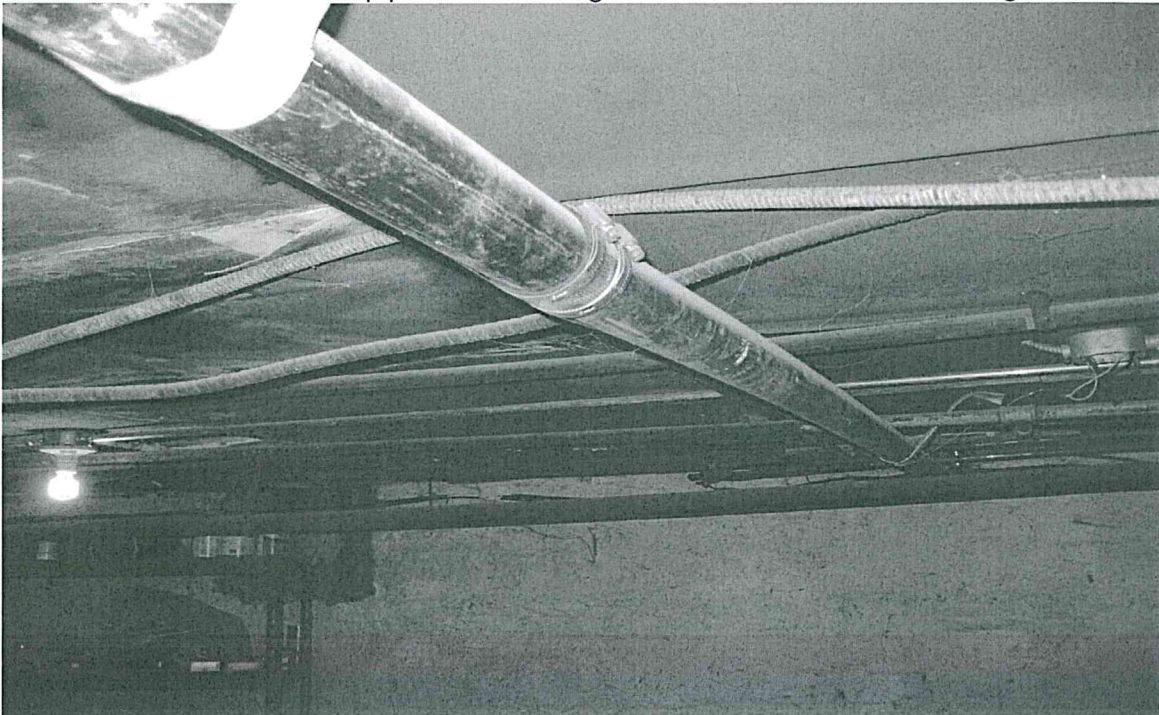


Photo 19

View of the west foundation wall in the basement of the building.

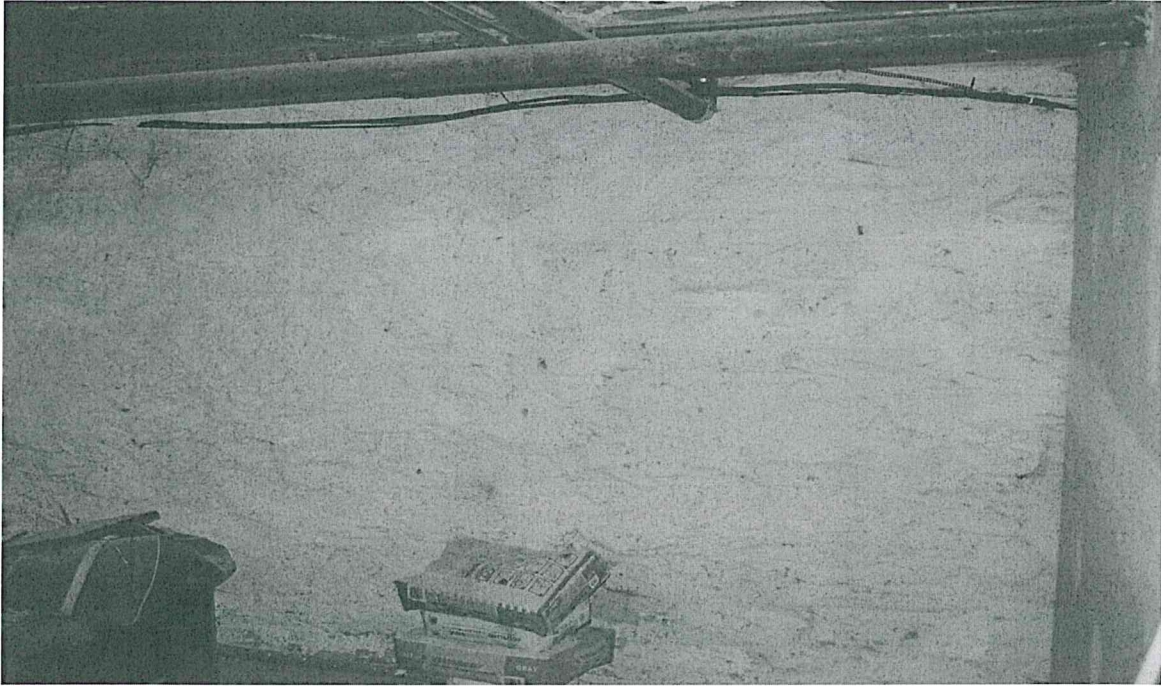


Photo 20

View of the new brass waste pipe trap on the ceiling of the basement along the east foundation wall of the building.

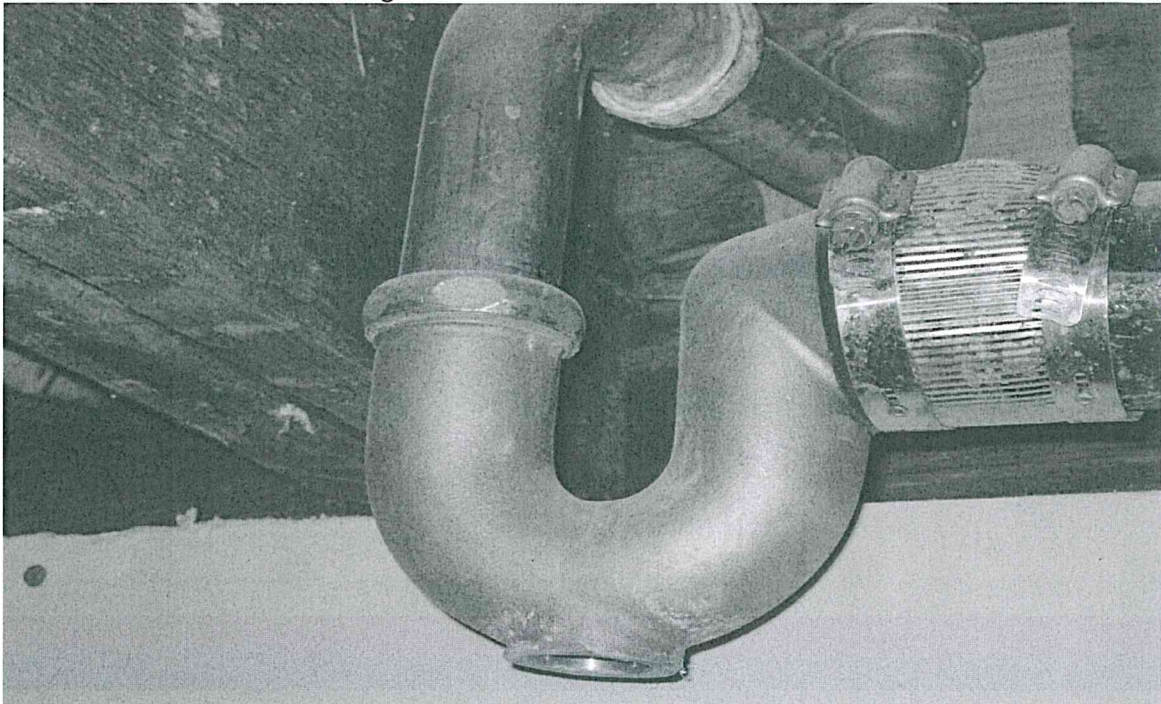


Photo 21

View of the new copper return heat pipe on the basement floor along the foundation wall.



Photo 22

View of the basement floor.

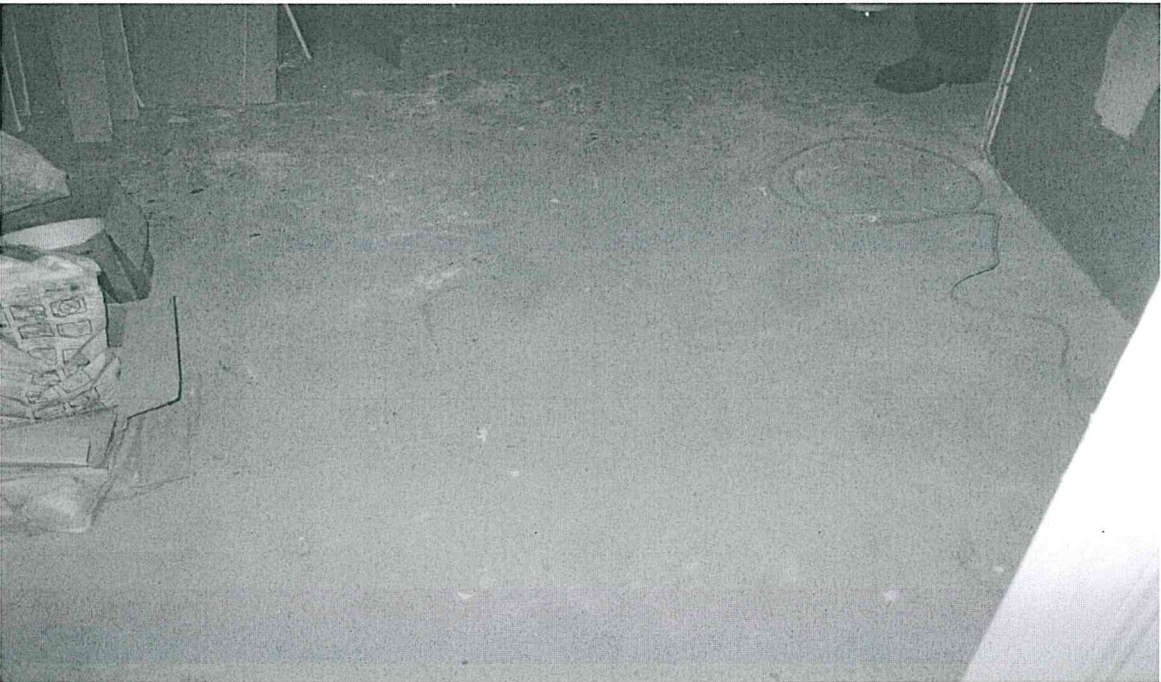


Photo 23

View of the electric meters and panel boxes in the basement of the building.

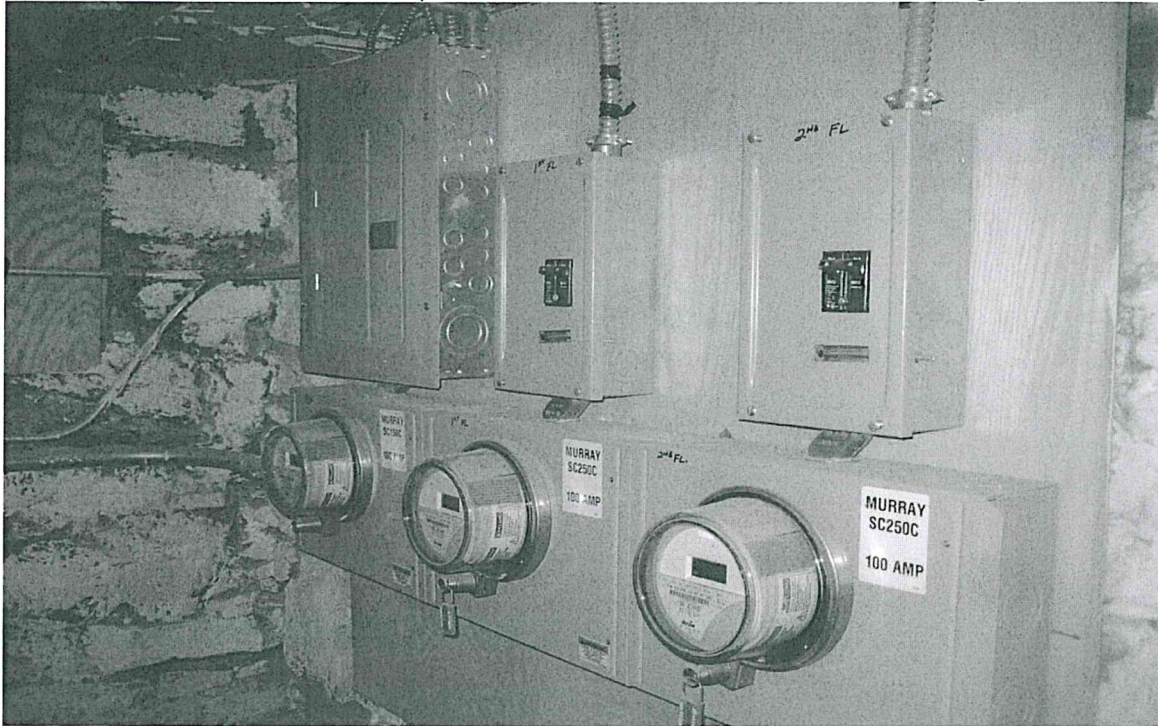


Photo 24

View of the ground level apartment of the building.



Photo 25

View of the bedroom of the ground level apartment.



Photo 26

View of the floor of the bedroom in the ground level apartment.



Photo 27

View of the north wall of the bedroom of the ground level apartment.



Photo 28

View of the east wall and doors of the bedroom of the ground level apartment.



Photo 29

View of the west wall of the bedroom of the ground level apartment.

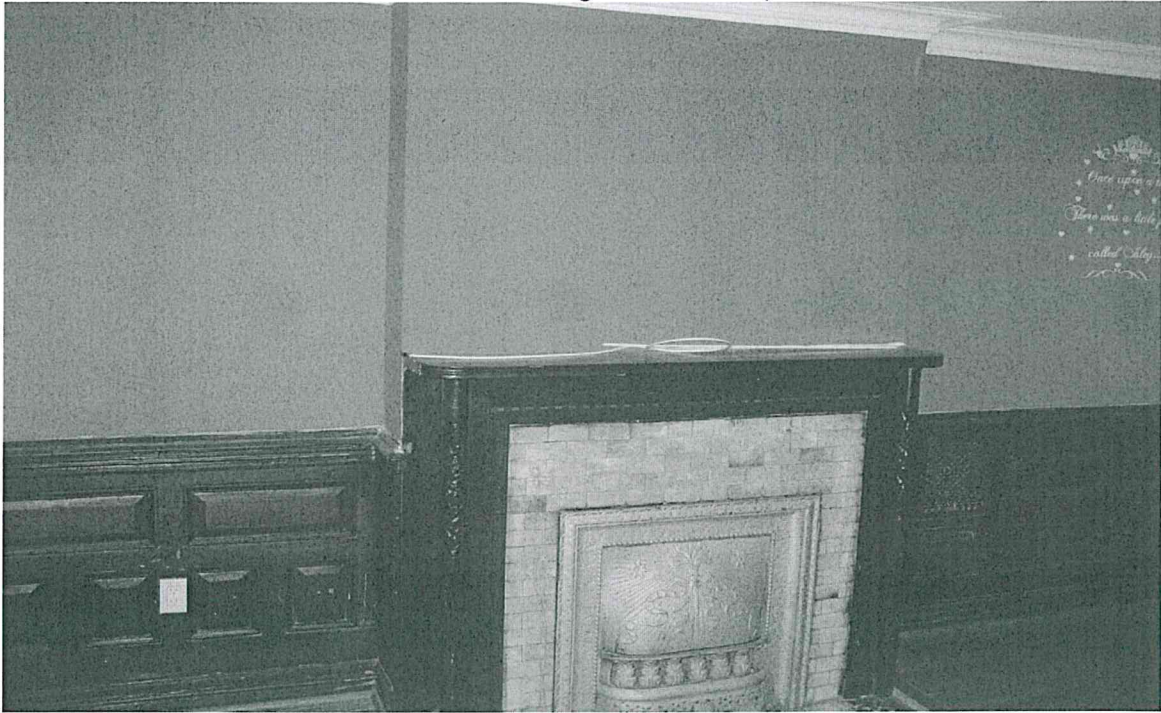


Photo 30

View of the south wall of the bedroom of the ground level apartment.



Photo 31

View of the ceiling of the bedroom of the ground level apartment.

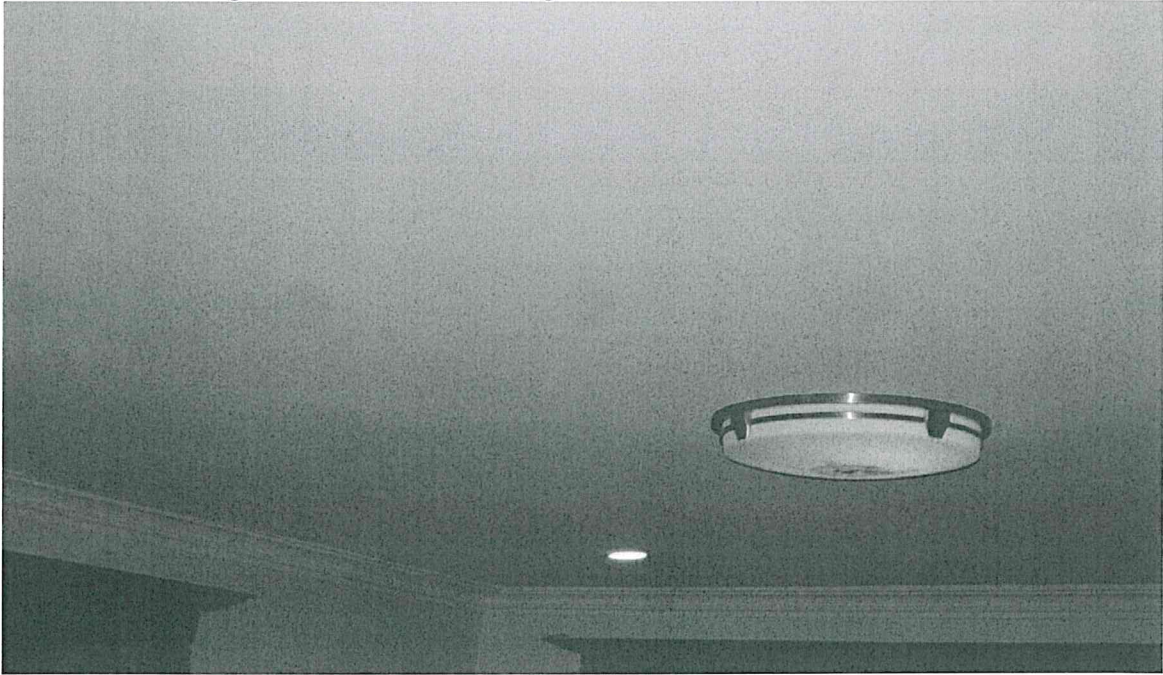


Photo 32

View of the west wall of the hallway between the bedroom and living room in the ground level apartment.

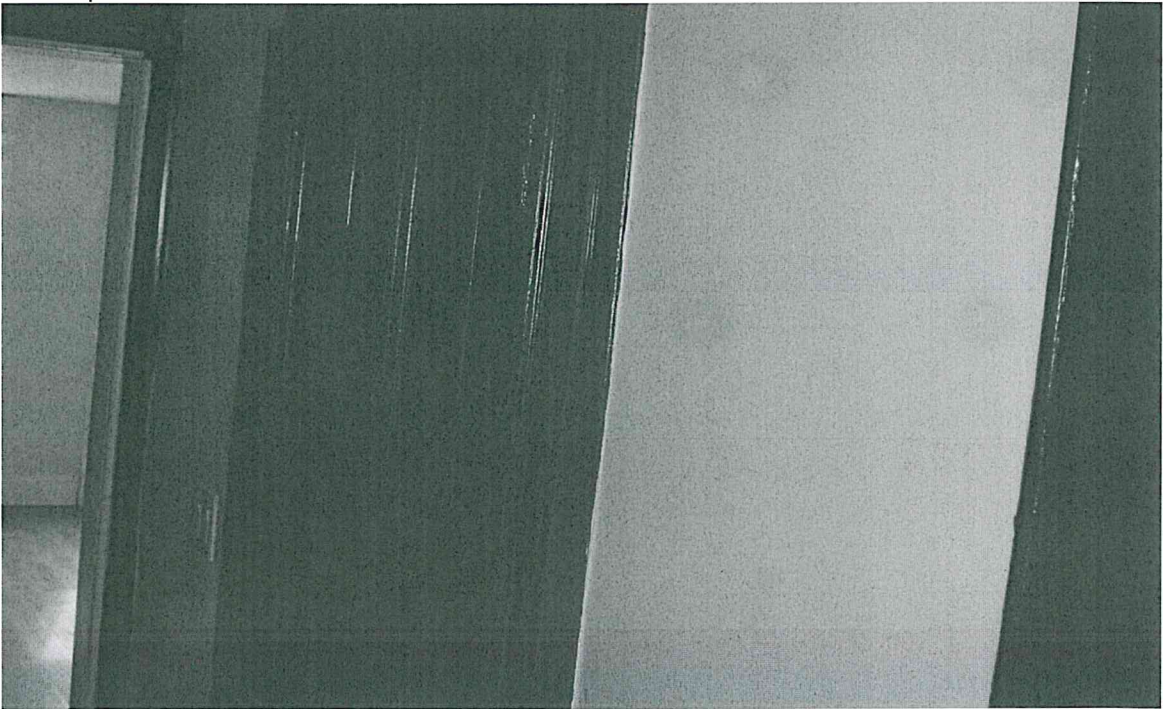


Photo 33

View of the east wall of the hallway between the bedroom and living room in the ground level apartment.

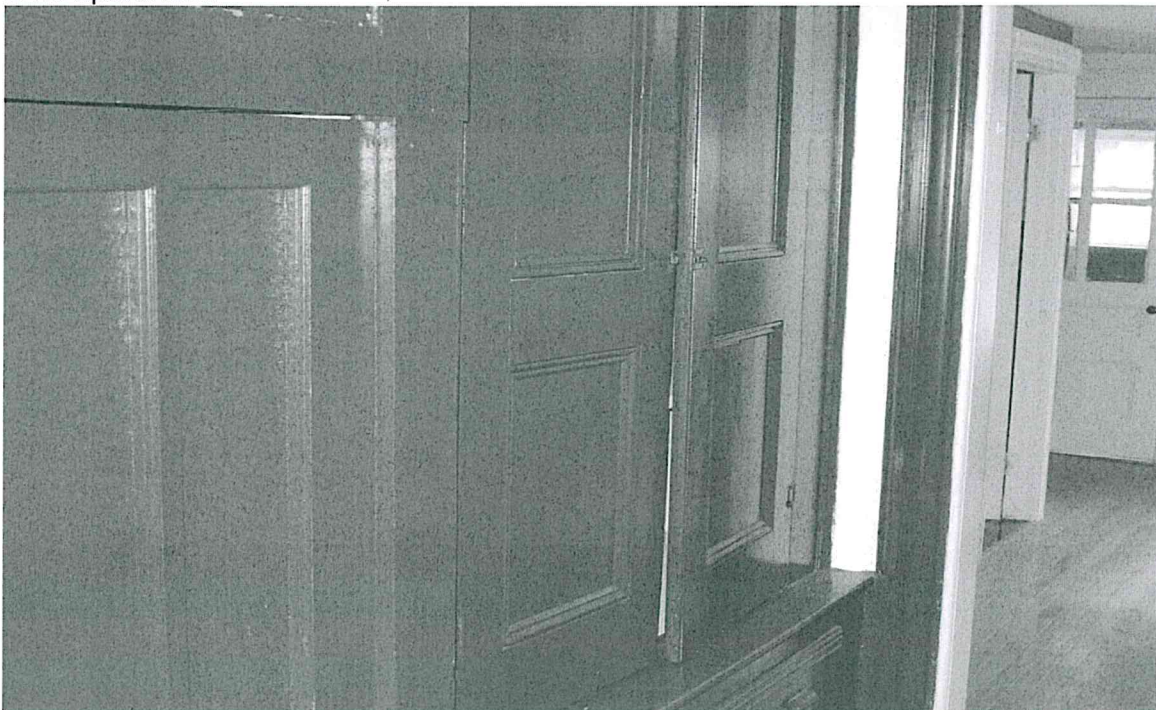


Photo 34

View of the ceiling of the hallway between the bedroom and living room in the ground level apartment.



Photo 35

View of the living room of the ground level apartment.



Photo 36

View of the floor of the living room in the ground level apartment.



Photo 37

View of the north wall of the living room of ground level apartment.

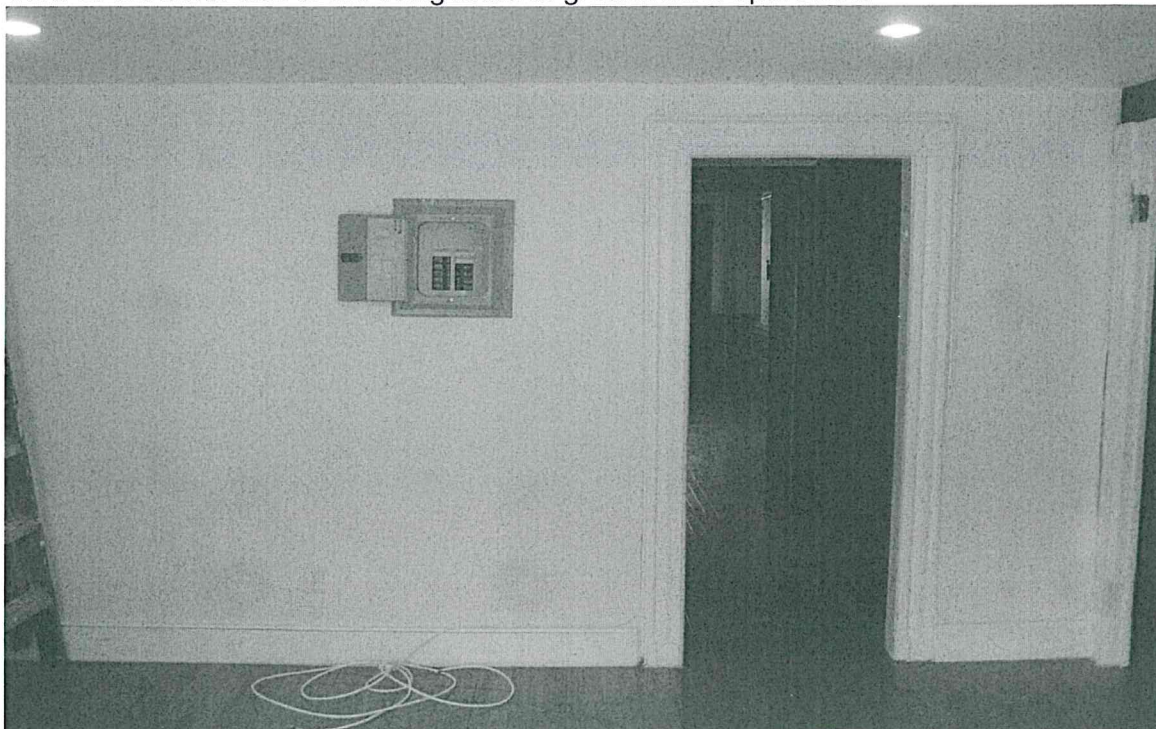


Photo 38

View of the east wall of the living room in the ground level apartment.

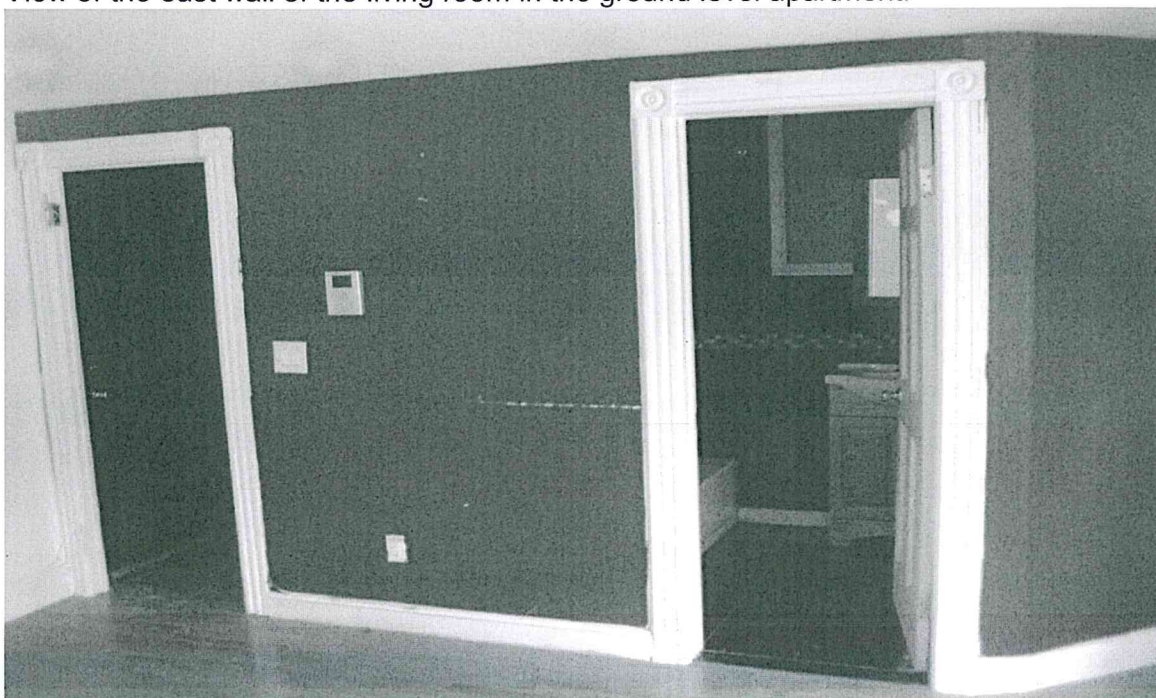


Photo 39

View of the west wall of the living room of the ground level apartment.

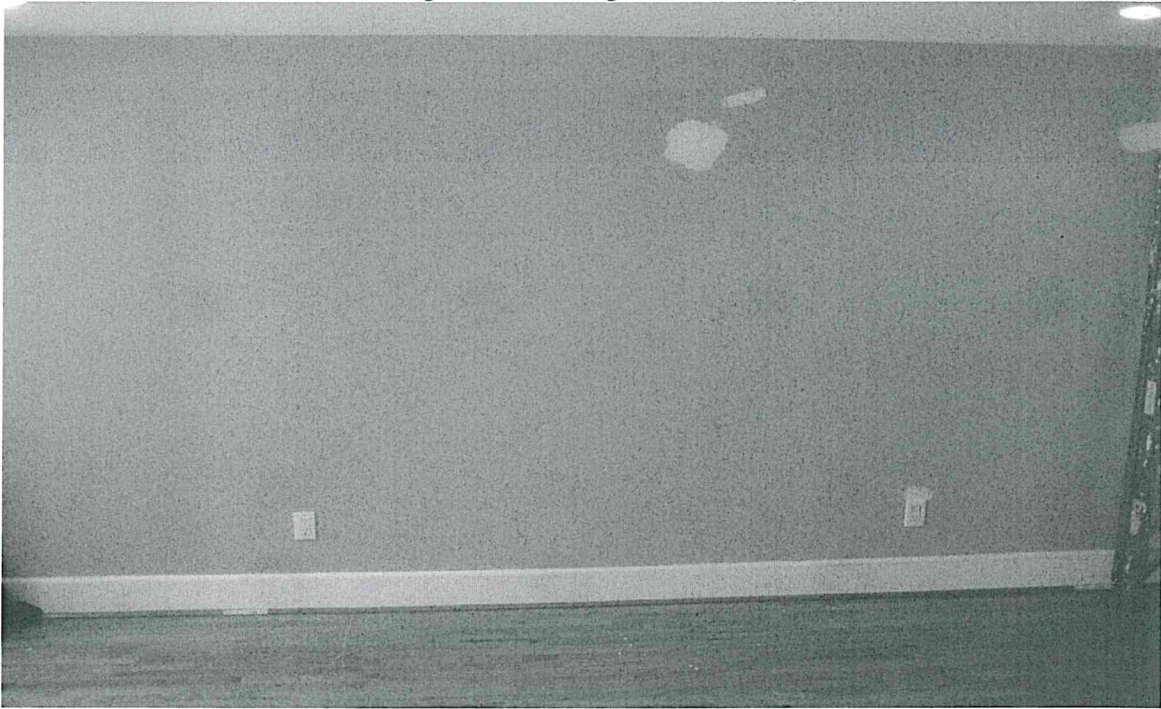


Photo 40

View of the south wall of the living room of the ground level apartment.



Photo 41

View of the bathroom of the ground level apartment.



Photo 42

View of the north wall of the bathroom of the ground level apartment.



Photo 43

View of the east wall of the bathroom of the ground level apartment.



Photo 44

View of the south wall of the bathroom of the ground level apartment.



Photo 45

View of the west wall of the bathroom of the ground level apartment.



Photo 46

View of the kitchen of the ground level apartment.



Photo 47

View of the north wall of the kitchen of the ground level apartment.



Photo 48

View of the east wall of the kitchen of the ground level apartment.



Photo 49

View of the south wall of the kitchen of the ground level apartment.

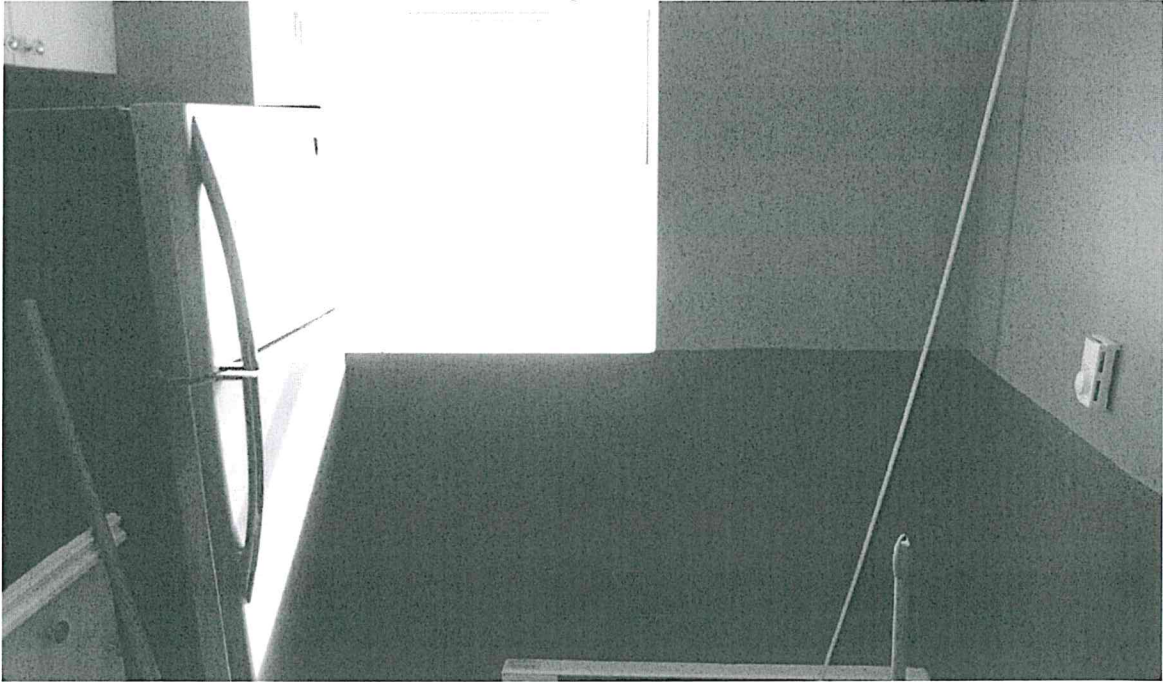


Photo 50

View of the west wall of the kitchen of the ground level apartment.

